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Recommendations for achieving the objective of nuclear disarmament and non-proliferation of nuclear weapons

Working paper submitted by the United States of America

The United States offers the following recommendations for strengthening the global nuclear non-proliferation regime. Most, but not all, relate to the Nuclear Non-Proliferation Treaty (NPT). This list is neither exhaustive nor exclusive.

Non-proliferation and compliance

1. Member States currently not in compliance with their non-proliferation commitments under the NPT should make the strategic decision to come back into compliance.

2. NPT nuclear-weapon States parties should establish and enforce the controls necessary to ensure compliance with their article I undertakings, and continue to consult among themselves periodically in an effort to ensure the application of all necessary control measures.

3. NPT non-nuclear-weapon States parties should refrain from activities designed to develop a nuclear-weapons capability, adopt and enforce necessary national laws and regulations to comply with their NPT article II and article III undertakings, and provide transparency sufficient to demonstrate that their nuclear programmes conform to their non-proliferation obligations.

4. All NPT States parties should assess and enforce compliance with the Treaty's prohibitions on the manufacture and acquisition of nuclear weapons, as well as on seeking or receiving any assistance in the manufacture or acquisition of nuclear weapons, by non-nuclear-weapon States. NPT States parties should identify and stop all such violations as early as possible, well before these activities result in the actual manufacture or acquisition of a nuclear weapon.

5. All States should maintain national moratoria on nuclear testing.

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6. All States should continue to comply with, and support the extension of, Security Council resolution 1540 (2004) of 28 April 2004, on preventing the proliferation of weapons of mass destruction and on strengthening export controls and nuclear material security. There should be continued cooperation in the implementation of resolution 1540 (2004), including through the provision of assistance where possible and needed. All States, as required by the resolution, should adopt national legal and regulatory measures, including enforcement provisions with appropriate penalties for violations. All NPT States parties should ensure that their national legal systems reflect both the broad goals of the NPT and the specific requirements of resolution 1540 (2004), and are adequate to ensure compliance by persons and entities within their jurisdiction.

7. All Member States should sign and ratify the International Convention for the Suppression of Acts of Nuclear Terrorism, facilitating its early entry into force.

8. All States with the capacity to do so should pursue coordinated activities, such as the Proliferation Security Initiative, consistent with national legal authorities and relevant international law, to interdict shipments, whether to or from States or non-State actors, of equipment, materials, and technology related to weapons of mass destruction that are inconsistent with the NPT's non-proliferation principles.

9. NPT States parties should address material violations of the Treaty's non-proliferation obligations through appropriate means, including a halt to nuclear cooperation with the offending State party. The use of equipment or material acquired or produced as a result of a material violation of the NPT's non-proliferation obligations would cease, and the offending State party would be required to return or eliminate such items.

10. All States should support the activities of the Security Council when cases of nuclear proliferation, including non-compliance with articles I, II and III of the NPT, are brought to its attention. The Council should act promptly in such instances to determine a response, particularly when a case constitutes a threat to international peace and security.

11. All States should support the commencement by the Conference on Disarmament of negotiations on a Fissile Material Cutoff Treaty, without linkage to any other issue. Pending the entry into force of such a treaty, all States should maintain national moratoria on the production of fissile material for nuclear weapons or nuclear explosive devices.

International Atomic Energy Agency

12. All NPT States parties should comply strictly with their safeguards obligations, and actively assist the International Atomic Energy Agency in resolving questions or difficulties that arise in the application of safeguards.

13. NPT States parties should provide strong political and financial support for the rigorous implementation of IAEA safeguards, and provide to the IAEA credible information relevant to compliance with safeguards and obligations.

14. All NPT non-nuclear-weapon States that have not done so should bring into force, at the earliest possible date, the safeguards agreement required by article III.4 of the NPT, and thereby come into compliance with that Treaty obligation.

15. There should be universal adherence by all NPT States parties to the IAEA Additional Protocol, and agreement among them that implementation of the Additional Protocol is a key standard by which to measure a party's commitment to its non-proliferation obligations under the NPT.

16. Adherence to the Additional Protocol also should constitute an essential new standard in the field of nuclear supply.

17. All NPT States parties should endorse efforts to strengthen the ability of the IAEA to ensure that nations comply with safeguards agreements, including through the promotion of the work of the Committee on Safeguards and Verification of the IAEA Board of Governors.

18. Any State under investigation by the IAEA Board of Governors for unresolved safeguards violations should not be permitted to participate in decisions by the Board regarding its own case, while retaining the right to address the Board in connection with such an investigation.

19. All NPT States parties should cooperate with the IAEA at all times, including by granting any access requested by the IAEA, consistent with the relevant safeguards agreement, for purposes of facilitating confidence through enhanced transparency.

20. All States should assist IAEA efforts to obtain a full explanation of nuclear programmes being investigated for possible safeguards violations, to include NPT States parties acting immediately when called upon by the IAEA Board of Governors to provide additional information or access in such cases.

21. The construction of secret nuclear facilities by NPT non-nuclear-weapon States should constitute non-compliance with NPT article III. That non-compliance would be magnified by a lack of transparency, delay, or deception in providing information about these facilities once they are uncovered.

22. Article XII.C of the IAEA Statute requires a report to the Security Council on safeguards violations whenever the IAEA Board of Governors calls on a State to remedy any safeguards non-compliance that the Board finds to have occurred. Such a report also is appropriate whenever the Board finds that the Agency is not able to verify that there has been no diversion of nuclear material required to be safeguarded to nuclear weapons or other nuclear explosive devices, or when questions arise that are within the competence of the Council because they pertain to the maintenance of international peace and security.

23. The IAEA should act swiftly, in conformity with its Statute, to halt technical assistance and seek the return of any related materials from any IAEA member that fails to remedy non-compliance with an IAEA safeguards agreement in a reasonable period of time.

24. The IAEA Board of Governors should suspend all technical assistance for any IAEA member State under investigation for such non-compliance and, for persistent violations of safeguards agreements, suspend its rights and privileges of membership, as permitted under the IAEA Statute.

25. NPT supplier States parties should undertake to deny enrichment and reprocessing equipment and related technologies to any State that does not already possess full-scale, functioning enrichment and reprocessing plants.

26. A reliable mechanism for providing nuclear fuel services at reasonable cost should be assured for all NPT States parties that are in compliance with the Treaty and with their safeguards obligations, which possess civil nuclear power reactors, and that do not pursue enrichment and reprocessing capabilities.

27. NPT supplier States parties should provide nuclear material, equipment, and technology to non-nuclear-weapon States only if all their peaceful nuclear activities are under IAEA safeguards and they are in full compliance with their nuclear non-proliferation obligations, including safeguards. NPT States parties in compliance with the Treaty should receive preference over non-NPT parties in regard to assistance to their peaceful nuclear programmes.

28. Nuclear-related dual-use items are not to be transferred to any non-nuclear-weapon State for any nuclear explosive activity or unsafeguarded nuclear fuel cycle activity, or to any State where there is an unacceptable risk of diversion to such an activity, or if the transfers are contrary to preventing the proliferation of nuclear weapons, or when there is an unacceptable risk of nuclear terrorism.

29. All States should strengthen national nuclear export controls to prevent nuclear-related equipment, material, or technology from being diverted to terrorist States or non-State actors.

Peaceful nuclear programmes

30. Peaceful nuclear programmes pursued by NPT States parties must conform to their relevant obligations under articles I, II, and III of the Treaty.

31. NPT supplier States parties should facilitate the fullest possible cooperation in the peaceful use of nuclear energy by NPT compliant non-nuclear-weapon States, with due consideration for the needs of developing countries, and in ways consistent with the non-proliferation obligations and objectives of the Treaty.

32. Full compliance with the NPT's non-proliferation obligations is essential to sustain full international confidence in peaceful nuclear applications in energy, industry, health, agriculture, and other fields.

33. All States should condemn the activities of certain NPT States parties, such as the Islamic Republic of Iran and the Democratic People's Republic of Korea, pursuing nuclear-weapons programmes under the cloak of allegedly peaceful nuclear programmes. The former should insist on the return of any previously supplied assistance to the nuclear programmes of the latter, and decline to provide any new assistance until those States parties come back into verified compliance with the NPT.

34. All States should undertake rigorous measures to address this security risk to the Treaty, especially that posed by tolerating the failure of member States to comply, and to maintain international confidence in peaceful nuclear cooperation among NPT States parties.

35. NPT article IV must be implemented in a manner that is fully consistent with the non-proliferation objectives and obligations of the Treaty.

36. The privilege to participate in peaceful nuclear cooperation and the benefits thereof should be reserved solely for NPT States parties that are in full compliance with their relevant obligations under articles I, II, and III.

37. NPT article IV does not provide States parties that have violated the non-proliferation provisions of the Treaty any protection from the consequences of these violations, including the imposition of punitive measures against their nuclear programmes.

38. Non-compliance with NPT articles I, II, and III should lead, at a minimum, to a halt in nuclear cooperation with a non-compliant Party, whether bilaterally or through the IAEA.

39. NPT article IV does not require the transfer of any particular nuclear material, equipment, or technology, and NPT supplier States should not approve a transfer unless there is full satisfaction that the proposed transfer will not contribute to proliferation.

40. Nuclear export controls are fully consistent with NPT article IV implementation.

41. The NPT neither guarantees nor prohibits the acquisition of a particular nuclear fuel cycle facility, but any such facility should conform to, and be fully consistent with, the scale of the nuclear programme of the recipient State, as measured by international standards and economic factors.

42. An assessment of whether the pursuit of an allegedly peaceful nuclear programme conforms to the NPT's non-proliferation undertakings depends on a number of factors, including the degree of transparency, rigorous compliance with safeguards undertakings, and the programme's adherence to peaceful purposes.

43. Ample nuclear fuel cycle services will exist for the foreseeable future, so there is no near-term need for any NPT State party currently without full-scale, functioning enrichment or reprocessing facilities to embark upon or complete the construction of such facilities. States should cooperate to ensure that reliable nuclear fuel services are made available to all countries that comply with their non-proliferation obligations and refrain from pursuing such facilities.

44. There should be an expansion of international partnerships, to include new donor and recipient States, in cooperative efforts, such as reducing global stockpiles of highly enriched uranium used in civil research reactors, and converting such reactors to the use of low enriched uranium where possible.

45. The international community should reduce the risk that terrorism poses to peaceful nuclear programmes by ensuring the application of strong security measures to nuclear material, radioactive sources, and associated facilities.

46. All States should undertake efforts to combat nuclear terrorism, such as implementing the IAEA's Nuclear Security Action Plan, supporting the revised Code of Conduct on the Safety and Security of Radioactive Sources, and accelerating efforts to improve regulatory control of radioactive sources in more than 90 member States of the IAEA.

47. The Convention on the Physical Protection of Nuclear Material is important for setting standards for the protection of nuclear material used for peaceful purposes. All States should support efforts to strengthen the Convention and to increase the number of parties.

Conclusion

All NPT parties need to work to strengthen the Treaty in all its aspects. Every nation has a stake in maintaining and strengthening the nuclear non-proliferation regime as a whole.

The international security environment of the twenty-first century requires all Governments to confront the non-proliferation non-compliance challenges to the NPT. States parties should seek to strengthen the non-proliferation provisions of the Treaty by responding decisively to non-compliance with these provisions, holding violators accountable for their violations, enforcing compliance with the Treaty, buttressing IAEA safeguards through adherence to the Additional Protocol, dealing with non-State actor trafficking in sensitive nuclear technology, blocking terrorist access to weapons of mass destruction by preventing cooperation between terrorists and their NPT violator patrons, and ensuring that activities to advance the peaceful use of nuclear energy do not facilitate the illicit proliferation of nuclear weapons and related technology.

Should the Disarmament Commission adopt the foregoing recommendations, NPT States parties should promote their endorsement at the 2010 Review Conference.